REMARKS/ARGUMENTS

It is believed clear from the Examiner's rejection based on the Turner patent and the comments referencing such patent that there is a misunderstanding as to applicant's invention and how this invention operates. Applicant provides a nibbler tool in which the operational head thereof can be rotated during operation with respect to the nibbler body.

This is distinctly different from the Turner construction in which the die apparently can be adjusted to any cutting direction by loosening the screw 30, twisting the die with respect to the body then tightening the screw 30 so as to fix the die and body in the new orientation. Adjusting the Turner die is not accomplished while the device is operational by manually guiding the die to different directions and thus differing die orientations with respect to the body. The foregoing is clear from Turner's complete silence with regard to the above referenced operation as conceived by the present applicant. Turner's V-shaped recess 29 to receive a conical screw 30 clearly is structurally suited to provide fixed attachment of the die to the bore, and this is clearly stated in the Turner Specification (see Column 3, Lines 23 – 32). Thus for a fair interpretation of the Turner patent, the references (Figs. 5 and 9A – C, and Column 4, Lines 42-43) cited by the Examiner must be read in conjunction with the areas (Column 3, Lines 23-32) above indicated by the undersigned attorney. When this is done, it becomes clear that Turner does not

contemplate, provide for or remotely suggest relative rotational movement of the die with respect to the body during the operational mode. The compound sentence at Column 4, Lines 42 – 4, refers to easy replacement of the punch via the disengaging screw and separately discusses adjustment of the cutting direction but such adjustment could only be accomplished in the manner above suggested by the undersigned attorney via loosening, then rotating, and then tightening the screw 30 to different fixed positions of the die and body and not while operational. Loosening the screw 42 would only permit the punch 33 to rotate and move longitudinally within the bore 40 in an inoperative manner since the screw 42 connects the punch to the eccentric drive mechanism which forces the punch up and down in bore 40 and has nothing to do with the orientation of the die head with respect to the body.

Of interest is the fact that the nibblers produced by Turner contemporaneous with the filing of his application in the U.S. which matured into U.S. Patent No. 4,748,744 did not even have a recess 29 as interpretively pictured in the patent but rather included four equispaced bores such that the die could be positioned in four different positions with respect to the body (see the Declaration of Joseph M. Strong in this regard). Additionally, as also indicated in the attached Strong Declaration, no nibblers provided rotational head adjustment, e.g., via the operator's hands, including the Turner nibbler and no mention of such is stated in the operational instructions of the many devices observed by the applicant, Joseph M.

Strong. In addition, Turner's operating instructions of the units produced while Mr. Strong and Turner's California based licensee (Rodman) were involved in litigation circa 2000 is attached where it is clear that to change the die 13, one slackens die screw 22 then removes the die from the body. Although the remaining operating/maintenance instructions are directed to replacing the punch, it is clear that reassembly includes inserting the die into the body bore and then retightening the die screw 22. This is indicative of operation in one or more fixed die and body positions and not of rotating the die with respect to the body in a potential 360 degree manner while operational. As described in the present application, working in limited spaces where the body of the nibbler must be moved along a desired cutting line or arc was a limitation of conventional nibblers such as the various Turner (Rodman) devices and only after the present inventor (Strong) devised this system and incorporated this rotational feature on his nibblers did others follow suit. Thus, no one used the present novel system despite a long felt need and despite the descriptive material in the Turner patent referred to by the Examiner inaccurately as explained above until devised and then incorporated into nibblers marketed by Strong. This in of itself is believed to be a strong indication of patentability.

The claims have been revised to better set forth the structural and operational features that enable applicant's device to function in the manner above described which is believed to be completely distinct from the conventional operation

of the Turner device as well as those in the other patents cited but not directly applied in the outstanding Office Action.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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